

Update on Children and Families Bill, Special Educational Needs and Disability (SEND)

Governing Body meeting

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4 September 2014

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Is your report for Approval / Consideration / Noting	
Consideration.	
Are there any Resource Implications?	
There is potentially a financial risk to the CCG, this is hard to quantify or assess until the take up on personal budgets is further understood and the gaps in the local offer are identified.	
Audit Requirement	
<u>CCG Objectives</u>	
<i>Which of the CCG's objectives does this paper support?</i>	
2. To improve the quality and equality of healthcare in Sheffield	
<u>Equality impact assessment</u>	
<i>Have you carried out an Equality Impact Assessment and is it attached?</i> No	
<i>If not, why not?</i> Not applicable	
<u>PPE Activity</u>	
All of the programme delivery locally has been progressed in co-production with parents and carers from Sheffield Parent Carer Forum.	
Recommendations	
The Governing Body is asked to: <ul style="list-style-type: none"> • Recognise the formal duties on health set out in the Children and Families Bill and the Indicative SEN Code of Practice. • Acknowledge the impact and challenges the new duties and ways of working will pose across Children's and Adult health services. • Receive a further update in April 2015. 	

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1. Introduction and background

The two main policy changes impacting on the reform of SEND are described within the *Children and Families Act (2014)* and in *SEN - Support and Aspiration (2011)*; both of which include legislative changes that became statute on 1 September 2014, with full transfer to the new system by April 2017.

The main areas of legislative changes include:

- Changes to the statutory assessment process
- Introduction of the Education, Health and Care Plan (EHCP)
- Publication of a Local Offer of provision
- Development of Joint Commissioning arrangements
- Strengthening parental rights and involvement in decision making

The implementation of the Bill specifically relating to children and young adults with complex health needs is described in further detail within the *Children and Young People's Outcome Framework (2012)*, and *Caring for Our Future (2012)*.

2 Impact of changes

This will mean changes in the following areas of health services across children's and adults:

- Improved co-ordination and integration of health assessment processes, both within community services and for assessment of need in relation to Continuing Healthcare
- Joint planning following assessment and more multi agency working between agencies; a developed health care plan that specifies need and provision and financial resources where applicable
- A clear publication of health provision that is available and commissioned locally to meet local need
- Development of joint commissioning arrangements to include the publication of the strategic commissioning framework and a policy on personal budgets, which includes the scope of personal health budgets.

Impact of implementation may include the following:

- Change in assessment and care planning process in community services and links to continuing healthcare assessment and decision making.
- Increase in the use of personal health budgets.
- The local offer may highlight unmet need and gaps in current service provision.

- The new commissioning framework will involve new ways of working and may place pressure on commissioning resources as the new framework evolves.
- Parental choice may lead to a need to address market development and put pressure on NHS resources.

The CCG has a duty to comply with the development and delivery of new ways of working around assessment and planning in relation to the EHCP new ways of working.

The CCG needs to ensure a Designated Clinical / Medical Officer is in place locally to support the strategic and operational implementation of the Act and to act as a point of contact to agree the content of health care plans as part of the EHC process.

The CCG needs to develop joint commissioning arrangements and consider the implementation of Personal Health Budgets. This represents a challenge to the healthcare system and may cause fragmentation and pressures within the healthcare economy.

The CCG needs to contribute to the Local Offer that will outline assessment and provision arrangements across the locality and enable families to make informed choices regarding the support their child requires.

3 Education, Health and Care Plan

The legislation recommends that the single plan (Education, Health and Care Plan) for children and young people be extended to age 25. This recommendation is to support young people, their families and services to ensure smooth and effective transition into adult services and to enable the alignment of young people's and adult services.

The new system for the assessment and review of SEND through the EHC pathway will instigate new ways of working and improved co-ordination, decision making and access to provision.

Locally, a pilot has been undertaken to test new ways of working and new assessment and planning processes. The development of a virtual team for 0-25 year olds is now underway within Sheffield City Council to support working within the new pathway.

There is a planned transition from the current SEN statement of need to convert to the new EHC assessment and planning process for individuals with current SEN and newly identified individuals.

Some assessment processes will need to link to existing healthcare assessment and planning processes and to the commissioning arrangements that exist within children's and adults continuing healthcare and joint commissioning. Although new ways of working around assessment and commissioning will need to be established in some areas.

4 Designated Medical Officer

CCGs have a duty to ensure a designated medical officer function is in place.

The co-ordination and agreement of the EHCP from a health perspective will become a designated non statutory function described in the practitioner's job description. Cited in the Code, the role could be undertaken by a medical practitioner or a suitably qualified practitioner (nurse or therapist) who holds the necessary skills to:

- Offer a co-ordinating function across health for the contribution from health to EHCP
- Offer health service advice to education and social care
- Support schools in the guidance '*Supporting Children with Medical Conditions in Schools*' (2013)
- Ensure the offer from health is reasonable and able to meet the needs of the child/young person.
- Support workforce development to enable the delivery of the reforms within health services

Most areas are suggesting that this role be undertaken by the community paediatrician currently responsible for health's contribution within the Statement of Educational Need.

Within Sheffield, a local options appraisal has been undertaken to consider the strengths and benefits of locating the function within different settings. The outcome of this suggested the role should be based within our current health care provision and that the current role of paediatrician that advises education could be adapted to support the role of designated clinical officer. Further work will need to be undertaken to think about how this function supports adult services for young adults up to age 25.

5 Joint Commissioning and Personal Health Budgets

The Strategic Commissioning Framework is evolving within Sheffield around children and young people with SEN with a clear vision, needs assessment and emerging work plan.

The framework to access additional resources outside of commissioned services is being developed through the EHC pathway and the interface with children's and adults joint commissioning is being established. Families will have the right to a personal budget for components of their healthcare and this needs further working through as part of the developing commissioning arrangements.

5.1 Personal Health Budgets

Personal Health Budgets (PHBs) have been piloted across the NHS between 2009 - 2012. The benefits seen were improved quality of life and reduction in episodes of unplanned care. Benefits were particularly evident with those with high level of need.

In response to the positive evaluation, the Government announced a right to have a PHB for all people who are eligible for Continuing Health Care funding, from October 2014. A PHB can take several forms including:

- A direct cash payment,
- Funds managed by a third-party for/with a service-user
- A 'notional' budget, where the CCG purchases the service but the service-user has greater control over how it is spent.

The Government intends to extend the use of PHBs beyond CHC to individuals with long term conditions from April 2015, although it is not clear yet how eligibility will be established and whether this will be a 'right' to have a PHB.

Personal health budgets do not include funding for:

- GP services
- Emergency care

- Anything illegal
- Tobacco, alcohol, gambling debts

The CCG also has some discretion as to what other services can be purchased using a PHB, and a policy on this will need to be developed. In respect of adults eligible for continuing healthcare, the CCG's current policy on commissioning care will also apply to the use of PHBs.

A personal health budget is the amount of funding currently required to deliver services for individual service users. The allocation is converted from block or tariff to an individual allocation. Some areas have developed Resource Allocation Systems (a points based system, linked to individual needs), whilst others have benchmarked the cost of meeting a service user's needs in a traditional manner, and based the PHB on this amount (the current cost of service divided by activity = unit/tariff cost); this budget is then made available to eligible individuals and managed through a Health Care Plan. The services that the budget covers within health would have to be worked out as part of the scope, they are likely to be community and therapy services.

The CCG is exploring options for delivering PHBs. There are opportunities to work jointly with the Local Authority (LA), which has established accredited providers of 'money management' and 'support planning', two key aspects of delivering PHBs. Furthermore, the CCG is exploring mechanisms for delivering direct payments, with the LA (who have been delivering such payments for many years) and also with the CSU.

Timescales for mobilising PHB

The Right to Ask for a personal health budget: April 2014 (people eligible for continuing healthcare only).

The Right to Have a personal health budget for individuals in receipt of continuing care: October 2014 (people eligible for continuing healthcare only).

Access to a personal care plan with/without a personal health budget for those with long term conditions: from April 2015.

6. Local Risk, Consideration in relation to PHB and Required Action

Whilst the legislation to support integration and ensure greater control by service users is seen as a positive step, the fulfilment of such aspiration will require large scale change. The current infrastructure of health, social care and education will need to be challenged and realigned to address the requirement for single assessment processes and care plans.

Locally, the Children's Health and Wellbeing Partnership Board have a work programme to support the implementation of the new legislation in relation to joint working practices, joint commissioning and arbitration. Members from adult joint commissioning are part of the programme and project structure to ensure alignment of planning and learning from adult services.

The main risk to realising full implementation relate to two elements:

- Timing of the legislative changes

- Confidence in the ability to flex current systems and processes to reflect the new ways of working

The main areas for immediate consideration are:

- Understanding current contractual arrangements linked to activity in relation to children with complex needs. Currently, most provider services for this cohort are contracted on a block basis and limited activity data is available to the commissioner. The lack of information will prove challenging when developing and allocating personal health budgets.
- Potential destabilising provider services through decommissioning to achieve personal health budgets.
- Developing a local offer - stimulating the market to offer real choice locally.
- Culture shift in relation to shift from reactionary services to outcome focused health plans.
- Fully engaging in the development of the single plan ensuring true cohesion across assessment and care plans
- Having capacity within the current continuing care assessment team to develop robust health plans within the timeframes identified, which enable assurance and mitigate personal, financial and organisational risk.
- Develop systems and processes to ensure implementation of the Bill and SEND policy including improving data collection, understanding current and future activity and ensuring synergy in relation to commissioning and workforce development.
- Ensuring transition from children's to adult services is developed to reflect the extension of the single plan to 25 years.
- Strengthening the role of primary care in supporting children and young people with complex needs throughout the development of progressive universalism.

7. Continuing Healthcare

There are wider implications in respect of continuing healthcare. The CCG's responsibilities to assess people for eligibility for CHC is unaltered, as are its responsibilities to plan and arrange services as well as care management. Work is underway to explore how to align assessment processes between the CCG and LA.

Where an adult is eligible for continuing healthcare, the CCG will continue to be responsible for arranging and paying for services to meet their health and social care needs. However, the LA may in some cases be responsible for paying for education services. The LA will continue to be responsible for wider welfare services for people eligible for CHC, as they are now.

The Department for Health is revising the National Framework for Children's Continuing Healthcare and it is expected that changes will support the implementation of new ways of working to meet the reforms.

8. The Local Offer

The local offer has been developed and will be launched for 1 September. This website holds information on education, social care and wider support services locally. The site will also provide information on healthcare services available for individuals aged 0-25.

9. Summary of Clinical Commissioning Groups' Responsibility

Clinical Commissioning Groups have a duty to co-operate in all areas where a co-ordinated response is required, therefore the key responsibilities for the CCG in relation to the reforms are that all statutory partners, which includes the CCG, must:

- Work with Sheffield City Council to develop the model for assessment and planning and redesign the workforce to deliver the health component of the Education, Health and Care plan
- Develop the role of the designated health officer to support local leadership of the reforms
- Develop in partnership the Joint Commissioning Strategy and framework for Children and young adults with complex needs
- Develop in partnership the personalisation agenda and implement personal budgets where required
- Develop the local offer describing health's offer to children and young adults with complex needs and or disability.

10. Local Implementation

The programme of work locally is reporting to the Children's Health and Wellbeing Board. It has a programme board with respective reporting to organisations executive teams and governing bodies.

11. Recommendations

The Governing Body is asked to:

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- Receive a further update in April 2015.

Paper prepared by Kate Laurance Senior Commissioning Manager, Children, Young People and Maternity

On behalf of Nikki Bates, CCG Governing Body Lead, Children and Families Portfolio

22 August 2014